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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,739	11/30/2001	Claude A. Marbler	ATM-2301	4484

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EXAMINER
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RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/996,739

Applicant(s)

MARBLER ET AL.

Examiner

Jane Rhee

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12,13,16,17,20-24 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12,13,16,17,20-24 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Rejections Withdrawn***

1. The objection to the specification and the 35 U.S.C 112 rejection 2<sup>nd</sup> paragraph of claim 12 has been withdrawn due to applicant's amendment on 11/1/04.
2. The 35 U.S.C. 103(a) rejection over Schlaeppi et al. of claims 12-14,20,27 has been withdrawn due to applicant's amendment on 11/1/04.
3. The 35 U.S.C. 103(a) rejection over Schlaeppi et al. in view of Olivieri et al. of claims 16,17,21-26 has been withdrawn due to applicant's amendment on 11/1/04.
4. The 35 U.S.C. 103(a) rejection over Olivieri et al. in view of Schlaeppi et al. of claims 12-14,16-17,20-27 has been withdrawn due to applicant's amendment on 11/1/04.

### ***New Rejections***

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 12-17,20-24,27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter is "there being no other layer in contact with the plastic film during the cutting of the at least one line of

perforations". The specification does not disclose that there are no other layer in contact with the plastic film during the cutting of the at least one line of the perforations. Applicant simply amended the claims to over the prior art of Olivieri et al.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 12-13,17,27 are rejected under 35 U.S.C. 102(b) as being anticipated by Niwa (EP 0468619).

Niwa discloses a process for preparing a multilayer packaging (col. 1 lines 1-3), comprising cutting at least one line of perforations completely through a plastic film consisting of a single plastic film (col. 3 lines 15-20), that is to be a precut, surface plastic layer of the multilayer packaging film (figure 1 number 4), there being no other layer in contact with the plastic film during the cutting of the at least one line of perforations (col. 3 lines 15-25), each of the at least one line of perforations extending from edge to edge of the plastic film (figure 3 number 7), and joining the precut plastic layer with at least one other layer to form the multilayer packaging film (col. 3 lines 22-25), and providing a notch in one edge of the multilayer packing film in the region of the perforations for initiating tearing along the tear line (col. 3 lines 35-48), the at least one line of perforations serve as an aid for alignment of the tear line propagating in the multilayer packaging film upon tearing open the packaging (col. 3 lines 44-48), the

packaging being easy to open by means of the tear line and the notch (col. 3 lines 35-38). Niwa discloses that the precut plastic layer is joined to the last one other layer by means of an adhesive layer to make up the multilayer film (col. 3 lines 22-25). Niwa discloses that wherein two lines of perforations are cut parallel or substantially parallel to each other at a distance apart as guidelines on both sides of a tear which propagates in the packaging film on tearing open (col. 3 line 50). Niwa discloses wherein the packaging film is employed for the production of pouch forms of packaging (col. 3 lines 31-34).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16,23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa (EP 0468619) in view of Olivieri et al. (6427420).

Niwa discloses the process for preparing a multilayer packaging film for a packaging as described above. Niwa fail to disclose that the notch is situated between the two lines of perforations. Olivieri et al. teaches that the notch is situated between the two lines of perforations (figure 8a number 431) for the purpose of tearing the materials forming the pack (col. 8 lines 57-58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Niwa with the notch that is situated

between the two lines of perforations in order to tear the materials forming the pack (col. 8 lines 57-58) as taught by Olivieri et al.

8. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa (EP 0468619) in view Schlaeppli (EP 0596747).

Niwa discloses the process for preparing a multilayer packaging film for a packaging as described above. Niwa fail to disclose wherein the precut plastic layer is joined to the at least one other layer by means of extrusion to make up the multi-layered film. Schlaeppli teaches that it is well known in the art to secure the other layer to the inner layer by an adhesive or by other lamination or extrusion coating techniques (col. 4 lines 19-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Niwa with the precut plastic layer that is joined to the at least one other layer by means of extrusion to make up the multi-layered film as it is notoriously well known in the art to secure the other layer to the inner layer by an adhesive or by other lamination or extrusion coating techniques (col. 4 lines 19-21) as taught by Schlaeppli.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 12-13,16-17,20-24,27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee  
February 8, 2005



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

2/18/05